



# *CITY COUNCIL*

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## *Public Safety Committee*

**Monday, June 1, 2009**  
**Agenda**  
**5:00 p.m.**

**Committee Members: D. Sterner, Chair; S. Marmarou; M. Goodman-Hinnershitz**

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<b>COMMITTEE OF THE WHOLE</b>	<b>5:00 pm</b>
<b>1. Amend Human Relations Ordinance</b>	
<b>2. 2008 External Audit Update – Herbein &amp; Co.</b>	<b>5:30 p.m.</b>

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| <b>I. Vacant Property Registration Ordinance</b>                               | <b>6:00 pm</b> |
| <b>II. Disruptive Conduct Ordinance</b>  | <b>6:30 pm</b> |
| <b>III. Update - Implementation of Recommendations from J. Kromer/E. Weiss</b> |                |
| <b>IV. Discussion on zoning housing permit process</b>                         | <b>7:00 pm</b> |
| <b>V. Review Reports:</b>  |                |
| - Codes Enforcement  |                |
| - Crime Stats (Police)   |                |
| - Fire Report  |                |

*It is possible that members of and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above-stated meeting to gather information. No action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to above in this notice.*

## **Public Safety Goals**

**Goal 1: Coordination of Police, Codes and Zoning Services**

**Goal 2: Support Problem Oriented Policing**

**Goal 3: Surveillance Camera Project - *underway***

**Goal 4: Support Consolidation of Fire Departments**

**Goal 5: Support Update of Emergency & Pandemic Plan (including NIMS Training for all required personnel)**

**Goal 6: Support Health and Safety Review Ordinances**

**Goal 7: Support Cops and Codes Sweeps**

**Goal 8: Support Implementation of Sidewalk Café and Sales Ordinances**

**Goal 9: Support Implementation of Sidewalk Vendor Ordinance**

**Goal 10: Support Public Safety at City Schools**



# *CITY COUNCIL*

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## ***Public Safety Committee***

**Monday, May 1, 2009**

**5:00 p.m.**

**Attendance:** D. Sterner, M. Goodman-Hinnershitz, S. Marmarou

**Other City Staff Attending:** S. Katzenmoyer, W. Heim, C. Younger, M. Mayes, R. Hottenstein

Dennis Sterner, Chair, called the meeting to order at 5:47 p.m.

### **I. Vacant Property Registration**

Mr. Hottenstein reminded the Committee that at the last discussion of this ordinance, Council's position was not to enact the ordinance if it was not going to be enforced. He questioned what the Committee saw as the goal of this ordinance.

Mr. Marmarou noted that vacant properties many times owe back taxes and fees. He questioned how many vacant properties are in the City. Mr. Mayes stated that he did not have a firm number.

Mr. Hottenstein stated that the blighted property study indicated that there are 2200 blighted properties. He is unsure if the study indicates the number of vacant properties.

Mr. Marmarou noted the numerous properties that have been vacant for many years. He again stated his belief that these properties owe taxes and fees. Chief Heim stated that this ordinance focuses on health and safety issues, not on collection issues. He stated that the Codes department is not ready to enforce this ordinance since they are still dealing with rental housing issues.

Ms. Goodman-Hinnershitz noted five vacant properties in her district that are within two blocks. She noted that neighboring properties are often affected which causes the blight to spread.

Mr. Marmarou described the situation at 1510 Linden St. This property is vacant. The property manager is no longer involved and there has been juvenile activity in the property. Mr. Marmarou noted his fear of fires being set. Chief Heim noted that the owner can be cited for property maintenance code violations but that the City would not abate the weeds, etc.

Mr. Hottenstein noted that abatement only occurs in extreme cases. He noted the work being done to institute the codes ticketing system.

Mr. Mayes stated that during his work in New Jersey, abatement was a last resort. He noted the problems collecting the fees from the property owner. He stated his desire to complete the housing permit process be complete before this ordinance is enacted.

Mr. Mayes informed the Committee that he has met with Wayne Cockrell from Reading Beautification on the blight issue. He stated that there are eight property owners in the Blighted Property Review process that cannot be located. He stated that positive progress has been made in this area.

Mr. Sterner noted that owners of vacant properties do not respond to requests from the City. He noted his belief that legal means should be used to get action. He questioned how many blighted homes were vacant.

Mr. Mayes stated that better data is needed.

Mr. Reinhart joined the meeting at this time.

Ms. Goodman-Hinnershitz requested that vacant homes be identified and a database created. She again noted the affect vacant properties have on row homes.

Mr. Hottenstein requested a legal brief on abandoned property legislation in Pennsylvania. Mr. Younger agreed to prepare this brief.

Mr. Hottenstein will review the blighted property study to determine if vacant properties were identified.

Mr. Hottenstein stated his belief that the vacant property registration process is too cumbersome for staff at this time.

This issue will be discussed at the next Public Safety Committee meeting.

## **II. Disruptive Conduct Ordinance**

Mr. Marmarou noted that this ordinance does not assist in evicting troublesome student neighbors. He noted that lowering the number to two DCRs has helped but that students simply move to another nearby property, usually one owned by the same property owner.

Mr. Sterner noted that this is a problem City-wide. He requested creating a list of tenants who have received two DCRs. Mr. Younger stated that a list can be created but the City cannot prevent landlords from renting to these tenants.

Mr. Sterner noted that good landlords would check the list.

Ms. Goodman-Hinnershitz stated that this assumes the landlords care about who they rent their units to. She stated her belief that if problem behaviors are to be targeted that criminal charges need to be filed.

Mr. Marmarou questioned if the property owner and tenant could be cited. Chief Heim stated that the proof needed to cite the owner is difficult to find.

Mr. Marmarou questioned if the housing permit could be pulled. Chief Heim stated that there must be proof that the owner knew about the poor behavior. He stated that on average, out of 100 situations, proof can only be found once.

Mr. Marmarou questioned if property owners are required to submit tenant lists. Mr. Reinhart noted that they are.

Mr. Younger stated that perhaps the City could declare the property a public nuisance. He stated that the owner could challenge this in court.

Ms. Goodman-Hinnershitz stated that this is a common problem in college neighborhoods. She requested that the Kutztown and Millersville ordinances be reviewed.

Mr. Reinhart stated that he can revoke the housing permit for an individual property but not for all the properties owned by the same entity.

Mr. Hottenstein questioned if there was another way to address these quality of life issues.

Ms. Goodman-Hinnershitz stated her belief that problem tenants move to other rentals and remain problems in other neighborhoods.

Mr. Sterner questioned if the DCR is issued to a particular person. Chief Heim explained that the DCR affects all tenants in the affected unit.

Mr. Marmarou noted that Albright's keg crawl is this coming weekend. He stated he knows where it will be taking place. He questioned what could be done. Chief Heim stated that as long as there is no under age drinking, nothing can be done unless behaviors get out of control. He noted his work with officers to lower their tolerance level and cite these behaviors each time they are on the scene.

Mr. Sterner questioned the progress with the 800 foot rule.

Mr. Marmarou noted seven student houses are in the 1500 block of N. 14<sup>th</sup> St.

Mr. Reinhart stated that this would be a zoning issue.

Mr. Mayes noted that he was unfamiliar with this regulation. He will research the issue and follow up with the zoning inspector.

Mr. Reinhart stated his belief that since this applies only to rentals with three or more people, if you have three or fewer, every property in the City can be a rental.

Ms. Goodman-Hinnershitz stated that there is a consortium of colleges who meet regularly to discuss issues such as this. She noted that this should continue to be monitored.

Ms. Goodman-Hinnershitz questioned if discussions with Albright are ongoing. Mr. Marmarou stated that they are. Chief Heim stated that things were pretty quiet and then there were several bad weekends.

### **III. Discussion on zoning and housing permits for student rentals**

Ms. Katzenmoyer explained that it is hoped that these student rentals can be targeted for enforcement of the permit process. She stated that neighbors know where these rentals are located. She requested that these rentals receive priority through the permit process.

Mr. Sterner questioned how applications are processed. Mr. Reinhart stated that all applications are a priority.

Mr. Hottenstein questioned if this would be the registration process or the full permit process. Mr. Sterner stated that it would be the full permit process.

Mr. Mayes and Mr. Reinhart stated that applications are processed as they are received.

Mr. Reinhart stated that Codes has cleared its backlog. He further stated that there are only two inspectors working on finding unregistered rentals.

Mr. Marmarou stated his belief that property owners will always find loopholes.

### **IV. Fires at City parks**

Ms. Katzenmoyer and Ms. Goodman-Hinnershitz relayed situations at Pendora Park and Neversink Playground involving youths setting fires. Chief Heim stated that if neighbors and/or people at that park witness the behavior, they should approach the officer responding as many times the officer does not question neighbors.

### **V. Codes Ticketing System**

Mr. Sterner questioned the progress of moving to this system. Mr. Reinhart stated that he is meeting with vendors regarding equipment needs. He is currently researching the hardware and software needs.

Mr. Sterner questioned when this system would be ready to be implemented. Mr. Reinhart stated that he would need three to four months to gather the necessary information and prepare the ordinance for introduction.

Chief Heim explained that the system being investigated would be hand-held devices for codes personnel.

The Public Safety Committee meeting adjourned at 6:52 p.m.

*Respectfully submitted by  
Shelly Katzenmoyer, Deputy City Clerk*

Issues for Follow-Up:

- Legal brief on abandoned property legislation in Pennsylvania
- Number of vacant properties in the City
- Review Kutztown and Millersville DCR Ordinances
- List of tenants receiving DCRs
- List of property owners without rental permits
- Enforcement of 800 foot rule for student rentals
- Zoning progress for properties in the rental registration/permit process
- Codes ticketing system

BILL NO. \_\_\_\_\_-2009

**A N O R D I N A N C E**

AMENDING THE CITY OF READING CODIFIED ORDINANCES BY CREATING A NEW  
PART 20 - VACANT BUILDING REGISTRATION - IN CHAPTER 10 HEALTH AND SAFETY  
ENFORCEMENT

**THE COUNCIL OF THE CITY OF READING HEREBY ORDAINS AS FOLLOWS:**

**SECTION 1.** The City of Reading Code of Ordinances is hereby amended by creating a new Part 20 Vacant Building Registration in Chapter 10 Health and Safety as attached in Exhibit A

**SECTION 2.** All other sections, parts and provisions of the City of Reading Code of Ordinances shall remain in full force and effect as previously enacted and amended.

**SECTION 3.** In the event any provision, section, sentence, clause, or part of this Ordinance shall be held to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such invalidity, illegality, or unconstitutionality shall not affect or impair the remaining provisions, sections, sentences, clauses, or parts of this Ordinance, it being the intent of City Council that the remainder of the Ordinance shall be and shall remain in full force and effect.

**SECTION 4.** This Ordinance shall take effect ten (10) days after adoption in accordance with City of Reading Home Rule Charter, as amended, Sections 219 and 221.

Enacted \_\_\_\_\_, 2009.

\_\_\_\_\_  
President of Council

Attest: \_\_\_\_\_  
City Clerk

(Councilor Waltman & Council Staff)  
(PMD and LAW)

Submitted to Mayor: \_\_\_\_\_



Date: \_\_\_\_\_

Received by the Mayor's Office: \_\_\_\_\_

Date: \_\_\_\_\_

Approved by Mayor: \_\_\_\_\_

Date: \_\_\_\_\_

Vetoed by Mayor: \_\_\_\_\_

Date: \_\_\_\_\_

## EXHIBIT A

### PART 20

#### VACANT BUILDING REGISTRATION

##### §10—2001. PURPOSE AND ENFORCEMENT.

A. The purpose of this part requiring the registration of all vacant buildings and structures and the payment of registration fees is to assist the City in protecting the public health, safety and welfare, to monitor the number of vacant buildings and structures in the City, to assess the effects of the condition of those buildings on nearby businesses, buildings, structures, properties and the neighborhoods in which they are located, particularly in light of fire safety hazards and unlawful, temporary occupancy by transients, including illicit drug users and traffickers, and to require of the owners of such vacant buildings and structures to register and the pay related fees, and to promote substantial efforts to rehabilitate such vacant buildings and structure. The provisions of this part are applicable to the owners of such vacant buildings as set forth herein and are in addition to and not in lieu of any and all other applicable provisions of the Codified Ordinances of the City of Reading and all relevant codes and/or regulations adopted therein.

##### §10—2002. DEFINITIONS

For the purposes of this section, where terms are not defined, such terms shall have ordinarily accepted meanings such as the context implies. The following words shall have the meanings respectively ascribed to them as follows:

**Boarded** means a building, structure or dwelling unit subject to the provisions of this part if in place of one or more exterior doors, other than a storm door, or of one or more windows, there is a sheet or sheets of plywood or similar material covering the space for such door or window.

**Dwelling unit** means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

**Notice** written notice of a violation or requirement under this section mailed, pursuant to first class mail, to the last known address of the owner of the property in question.

##### **Public Nuisance:**

(a) Any building or structure which because of physical condition or use is regarded as a public nuisance and has been declared a public nuisance in accordance with the local housing, building, plumbing, fire and related codes.

(b) Any building or structure which because of physical condition, use or occupancy is considered an attractive nuisance to children.

(c) Any building or structure which because it is dilapidated, unsanitary, unsafe, insect or vermin infested or lacking in the facilities and equipment required by the City of Reading Codified Ordinances and has been designated by the City as a public nuisance.

(d) Any structure which is a fire hazard or is otherwise dangerous to the safety of person or property.

(e) Any structure from which water, plumbing, heating, sewage or other facilities have been disconnected, destroyed, removed or rendered ineffective so that the property creates a hazard to neighboring properties.

(f) Any building or structure which for reason of neglect or lack of maintenance, has become a place for accumulation of trash and debris or a haven for rodents and other vermin.

(g) Any building or structure which lacks or has rendered inoperable fire protection system as required by the applicable City of Reading Codified Ordinance.

(h) Any building or structure which as a result of its dilapidated, unsanitary, unsafe, insect or infested condition creates a damage or a risk of damage to a neighboring property.

**Occupied** any building or structure where one or more persons actually conducts a lawful business or resides in all or any part of the building as the licensed business-occupant, or as the legal or equitable owner/occupant(s) or tenant(s) on a permanent, non-transient basis, or any combination of the same. For purposes of this part, evidence offered to prove that a building is so occupied may include, but shall not be limited to, the regular receipt of delivery of regular mail through the U.S. Postal Service; proof of continual telephone, electric, gas, heating, water and sewer services; trash collection services; a valid City business license, or the most recent, federal, state, or City income tax statements indicating that the subject property is the official business or residence address of the person or business claiming occupancy; or proof of up to date tenant list

**Open** a building or structure whereat any one or more exterior doors, other than a storm door, is broken, open and, or closed, but, without a properly functioning lock to secure it, or if one or more windows is broken or not capable of being locked and secured from intrusion or any combination of the same.

**Owner** any person, agent, operator, partnership, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

**Vacant** a building or structure shall be deemed to be vacant if no person or persons actually, currently conducts a lawfully licensed business, or lawfully resides or lives in any part of the building as the legal or equitable owner(s) or tenant occupant(s), or owner-occupants, or tenant(s) on a permanent non-transient basis.

#### **§10—2003. APPLICABILITY**

The requirements of this article shall be applicable to every building and structure in the City of Reading and each owner of any building whether governmental, commercial, residential or institutional or owned by non-profit or a for-profit organization in which the building in total shall have been vacant for more than 45 consecutive days. Registration shall be required for all vacant buildings and structures, whether vacant and secure, vacant and open or vacant and boarded and shall be required whenever any building has remained vacant for 45 consecutive days or more. This part shall not apply to any building owned by the United States, the Commonwealth, the City of Reading, County of Berks nor to any of their respective agencies or political subdivisions.

#### **§10—2004. REGISTRATION STATEMENT**

Each such owner shall cause to be filed a notarized registration statement on a form prepared and provided by the Property Maintenance Division of the City of Reading, which shall include but not be limited to the street address and parcel number of each such vacant building, the names and addresses of all owners, as hereinafter described, and any other information deemed necessary by the Property Maintenance Division, Building and Trades Division and the Department of Fire and Rescue Services. For purposes of this part, the following shall also be applicable:

- (a) If the owner is a corporation, the registration statement shall provide the names and residence addresses of all officers and directors of the corporation and shall be accompanied by a copy of the most recent relevant filing with the Pennsylvania Department of State.
- (b) If an estate, the name and business address of the executor of the estate;
- (c) If a trust, the name and address of all trustees, grantors and beneficiaries;
- (d) If a partnership, the names and residence addresses of all partners with an interest of ten (10) percent or greater;
- (e) If any other form of unincorporated association, the names and residence addresses of all principals with an interest of ten percent or greater;
- (f) If an individual person, the name and residence address of that individual person.

The Registration Statement and, where applicable, Registration Fee(s) as required by sub-section §10—2006 of this section shall be billed by the Property Maintenance Division and such Registration Statement and, where applicable, Registration Fee(s), shall be filed with and/or paid to the Property Maintenance Division for the subject year no later than the last business day of said year, on or before December 31, or if December 31 falls on Saturday or Sunday by the preceding Friday, of each year. For purposes of this ordinance, registration application initially shall be due on September 1, 2009

#### **§10—2005. DUTY TO AMEND REGISTRATION STATEMENT**

If the status of the registration information changes during the course of any calendar year, it is the responsibility of the owner, responsible party or agent for the same to contact the Property Maintenance Division within thirty (30) days of the occurrence of such change and advise the department in writing of those changes.

#### **§10—2006. FEES**

The owner of the vacant property as of December 31<sup>st</sup> of each calendar year shall be responsible for the filing of his/her Registration Statement and, where applicable, registration payment of the non-refundable registration fee. Said fee shall be \$100 per year per building and structure which

has not been declared a public nuisance by the City of Reading Property Maintenance Division, Department of Fire and Rescue Services or Building and Trades Division of the Department of Community Development and the exterior of said building or structure is compliant with the applicable codes and ordinances.

Upon a determination that a building or structure is a public nuisance or becomes non code compliant on the exterior, the fee for Registration of a Vacant Building or Structure shall be:

- \$500 for buildings or structures that have been vacant for one to two years;
- \$1,000 for buildings or structures that have been vacant for two to three years;
- \$2,000 for buildings or structures that have been vacant for three to five years;
- \$3,500 for buildings or structures that have been vacant for five to ten years; and
- \$5,000 for buildings that have been vacant for ten years.

The fee shall increase by \$500 for each year beyond the ten years that the building has been vacant.

An owner may appeal a determination of a public nuisance or exterior non code compliant to the Building and Fire Board of Appeals as set forth herein. Once a building or structure has been declared a public nuisance or non code compliant, upon correction of the basis for such determination, an owner may apply to the Property Maintenance Division for removal of the nuisance or non code compliant determination and reduction of the fee to \$100 per year.

#### **§10—2007. DELINQUENT REGISTRATION FEES AS A LIEN**

After the owner is given notice of the amount of the Registration Fee due, except for those owners that have properly perfected an appeal pursuant to §10-2012 above, and the owner fails to pay the amount due within thirty (30) days, said amount shall constitute a debt due and owing to the City, and the City may either enter a lien on the property or turn it over to a collection agency for receipt as provided by law

#### **§10—2008. ONE TIME WAIVER OF REGISTRATION FEE**

A one-time, one year waiver of the registration fee may be granted by the Property Maintenance Division upon application of the owner and upon review and advice of the Solicitor's Office, within 15 calendar days of the date of the bill for the registration fee, if the owner:

1. Demonstrates with satisfactory proof to the Property Maintenance Division, Building and Trades Division and/or Department of Fire and Rescue Services that he/she has submitted valid architectural plans, based on city's permits and planning application procedures, and otherwise has shown good faith efforts to efficiently rehabilitate, demolish, or otherwise substantially repair or improve said vacant building; or
2. Demonstrates with satisfactory proof to the Property Maintenance Division, Building and Trades Division and/or Department of Fire and Rescue Services that he/she is actively marketing the property for sale/lease. Actively marketing will be defined as an owner who has placed a "for sale" or a "for lease" sign on the property with accurate contact information, which is also

provided to the Property Maintenance Division, Building and Trades Division and/or Department of Fire Services, and has done at least one of the following:

- (a) Engaged the services of a real estate licensee, whose name, address, telephone number and email will be provided to the Property Maintenance Division, Building and Trades Division and Department of Fire and Rescue Services, in the Multiple Listing Service (MLS);
- (b) Placed weekly advertisements in print or electronic media;
- (c) Distributed printed advertisements.

#### **§10-2009. DECISION ON APPLICATION FOR WAIVER**

Within thirty (30) days after the waiver application is received by the Property Maintenance Division, and upon review by the Property Maintenance Division, Building and Trades Division and/or Department of Fire and Rescue and advice of the Solicitor's Office, the Property Maintenance Division shall grant or deny the waiver in writing, and dispatch the written decision by mail to the owner. If the owner properly submitted an application for a one-time waiver to the Property Maintenance Division and that application was denied, the owner may seek an appeal from the Building and Fire Board of Appeals by filing an appeal request in writing within twenty (20) calendar days of receipt of the denial.

#### **§10—2010. LOCAL AGENT**

If none of the persons listed in §10-2004 above is shown at an address within Berks County, the Registration Statement also shall provide the name and address of a person who resides within Berks County appointed by the owner as the local agent. The owner and responsible local agent shall be jointly and severally legally responsible compliance with the City of Reading Codes and Codified Ordinances and the laws of the Commonwealth of Pennsylvania. The local responsible agent shall be responsible for, including but not limited to, providing the Code Official with access to the building or structure for the purpose of making inspections, is authorized to accept service of process on behalf of the owners, receive notification in the event of an emergency affecting the public health, safety or welfare and for purposes of service of any and all notices or registration statements as herein authorized and in connection herewith.

#### **§10—2011. INSPECTIONS**

**Annual Inspection.** An annual inspection of a Registered Vacant Building shall be performed by the Property Maintenance Division for Residential Structures and Building / Trades Division and/or Fire Prevention Division for Commercial Structures, or as necessary, to determine if it complies with the minimum requirements, as determined by the code official, of applicable Property Maintenance Code, Building and Trades Codes and Fire Prevention Code. If violations of these Codes are identified the Property Maintenance Division shall issue a notice of violation as per the requirements of those codes and give notice to the owner to comply with the codes with a time to cure. If the violations are not corrected within the time given, the property shall be declared a public nuisance.

**Complaint Inspections.** Nothing in this Part shall preclude a Code Official from performing an inspection upon receipt of a complaint of violation of the City of Reading Codes and Codified Ordinances existing at the building or structure. Said inspections shall be in accord with the applicable Codes and Ordinances and regulations and policies established by the City of Reading.

**Right of Entry.** The Code Officials are authorized and directed to make inspections at any reasonable hour to determine compliance with the aforementioned codes. For this purpose, the Property Maintenance Division, Building and Trades Division and Department of Fire and Rescue Services, its officers or representatives are authorized to enter and examine any building, structure, yard or part of either and every owner, operator or occupant shall allow the inspectors, officers or representatives of the Property Maintenance Division and Department of Fire and Rescue Services free access.

**Search Warrant.** If any owner, local agent or other person in charge of a building or structure subject to the provisions of this Part refuses, impedes, inhibits, interferes with, restricts or obstructs entry and free access to every part of the structure or premises where inspection authorized by this Part is sought, the administrative authority, appropriate Code Official, shall promptly apply for an administrative search or inspection warrant to a court of competent jurisdiction and shall supply all necessary affidavits and testimony to indicate that there is a reasonable or probable cause to conduct an inspection.

**Notice.** All notices scheduling an inspection shall be mailed via regular mail to the owner of record with a copy mailed via regular mail to the local responsible agent.

**Failure to Appear for Inspection.** If the owner or his/her local responsible agent cannot be available at the proposed time, said owner or representative shall provide no less than 24-hour written notice to the Property Maintenance Division. Upon failure to give such written notice or upon failure to gain entry, an administrative fee of \$50 will be assessed against the owner or representative of the owner failing to supply written notice or appear. For each rescheduling beyond the second rescheduling an administrative fee of \$100 shall be assessed in all cases. Failure to pay administrative fees shall at the discretion of the Code Official constitute a violation of this or the applicable Code including but not limited to the City of Reading Property Maintenance Code. Failure of an owner or his/her local responsible agent to appear for a scheduled inspection shall be considered probable cause for obtaining a search warrant to inspect the premises.

**Special Requested Inspection.** Whenever the owner, mortgagee, purchaser or other interested party requests a special inspection of a property regulated by this Article, or certification that a property is in compliance with this Article or other applicable City ordinances pertaining to structural condition; when such a request is being made in connection with the sale, conveyance, transfer, financing or refinancing of such property; then such person shall first pay a fee of \$200 to the City to defray the expenses of making such inspection.



## **§10—2012. SERVICE CUT OFFS**

Upon registration of a property the Property Maintenance Division and/or Fire Marshall shall see to it that all service utilities are disconnected as per Property Maintenance Code 108.2.1 Service Utilities.

## **§10—2013. APPEAL RIGHTS.**

**A. Registration Fees.** The owner shall have the right to appeal the imposition of the registration fees to the Building and Fire Board of Appeals upon filing an application in writing to the Property Maintenance Division no later than twenty (20) calendar days after the date of the billing statement. On appeal, the owner shall bear the burden of providing satisfactory objective proof of occupancy as defined in §10-2002 above.

**B. Public Nuisance and Exterior Non Code Compliant.** The owner shall have the right to appeal the determination that a building or structure is a public nuisance or the exterior is non code compliant to the Building and Fire Board of Appeals upon filing an application in writing to the Property Maintenance Division no later than twenty (20) calendar days after notification of said determination. On appeal, the owner shall bear the burden that the property is not a public nuisance and the exterior is code compliant.

**C. Fee.** The fee for filing of an appeal to the Building and Fire Board of Appeals shall be \$100. Failure to submit the appropriate fee with the request for an appeal shall result in automatic denial of the appeal. In addition to said fee, the Appellant shall be responsible for all costs incurred to conduct a hearing beyond that covered by the fee.

## **§10—2014. ADMINISTRATION AND ENFORCEMENT**

Administration and enforcement of this section shall remain under the control of the Property Maintenance Division, Building and Trades Division and/or the Department of Fire and Rescue Services.

## **§10—2015. VIOLATIONS AND PENALTIES.**

**A. Violations.** The failure or refusal for any reason of any owner, or agent of an owner acting on behalf of the owner, to file a Registration Statement, to pay any fees required to be paid pursuant to the provisions of this part, or to appear for an inspection, shall constitute a violation. The violation shall be deemed a strict liability offense

**B. Prosecution of Violations.** The Fire Marshal, Chief Building Official and/or Property Maintenance Division Administrator or his/her designee.  
shall have the authority to institute the appropriate proceeding at law or in equity, to restrain, correct or abate such violation of the provisions of this Part or of the order or direction made pursuant thereto. Such authority shall include but not be limited to the Fire Marshal, Chief Building Official and/or Property Maintenance Division Administrator or his/her designee, institution of summary criminal proceedings via the issuance of a nontraffic citation in accord with the Pennsylvania Rules of Criminal Procedures in the court of appropriate jurisdiction, as a

means of enforcement of this section and shall, when acting within the scope of employment hereunder, have the powers of a police officer of the City; provided, however, that under no circumstances shall they have the power of arrest.

**C. Penalties.** Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) for the first two continual and uncorrected failure or refusal to register, or for each failure or refusal to pay and not exceeding five thousand dollars (\$5,000) for the third and any subsequent continual and uncorrected failure or refusal to register or for each subsequent failure or refusal to pay or imprisonment for any term not exceeding (90) ninety days. Each day that violation of this Part continues or each section of this Part which shall be found to have been violated shall constitute a separate offense.

#### **§10—2016. COMPLIANCE WITH OTHER CODES**

In no instance shall the registration of a vacant building and the payment of registration fees be construed to exonerate the owner, agent or responsible party from responsibility for compliance with any other City of Reading Code or Ordinance.

#### **§10—2017. NONEXCLUSIVE REMEDIES.**

The penalty and collection and lien provisions of this Part shall be independent, nonmutually exclusive separate remedies, all of which shall be available to the City of Reading as may be deemed appropriate for carrying out the purposes of this Part. The remedies and procedures provided in this Part for violation hereof are not intended to supplant or replace to any degree the remedies and procedures available to the City in the case of a violation of any other City of Reading Code or Codified Ordinances, whether or not such other code or ordinance is referenced in this Part and whether or not an ongoing violation of such other code or ordinance is cited as the underlying ground for a finding of a violation of this Part.

#### **§10-2018 BLIGHTED PROPERTY REVIEW**

Nothing in this Part, shall be meant or utilized to override or circumvent a property under consideration, review and in the process of the City of Reading Blighted Property Review Committee. A property may be under order of the City of Reading Blighted Property Review Committee to be rehabilitated yet continue to be required to register as a Vacant Building or Structure pursuant to this Part.

## Amend Reading DCR Ordinance to:

### 1. Create Level 1 and Level 2 DCR

- Level 1 DCR – current regulations and add quality of life violations such as uncut grass/weeds, failure to remove animal waste, indoor furniture outside, improper trash set out, improper snow/ice removal, failure to comply with Animal regulations, etc.
- Level 2 DCR – disruptive conduct resulting in a criminal violation/citation that would be heard at the Magisterial District Judge or Court of Common Pleas level
- Two Level 1 DCR's within a year requires eviction of tenant and revocation of housing registration and/or non-renewal of housing registration
- One Level 2 DCR requires eviction of the tenant and revocation of housing registration and/or non-renewal of housing registration  
Note: Kutztown Level 2 DCR is applied regardless of the outcome of citation hearing or process

### 2. Codes is required to maintain a list of occupants who have earned DCRs and publish that list on the City's website so landlords can review and rent to tenants without DCR issues. Also list the properties that have had DCRs and/or Codes violations so tenants can select properties without issues.

*8. Maintenance of List of Disruptive Conduct Report Tenants and Occupants and Evicted Occupants. The Codes Enforcement Office shall maintain a list of the names of all occupants and tenants against whom a disruptive conduct report is issued as a result of this Part. The Codes Enforcement Division shall also maintain a list of all occupants and tenants evicted as a result of this Part. The names shall remain on the list for a period of 5 years. [Ord. 43-2008]*

### 3. Request that Albright require students who have earned two level 1 DCRs or one Level 2 DCR to move back on campus for a one year period.

### 4. Restrict landlords who have had their housing permit revoked or denied from transferring the property to a family member or under the veil of corporate ownership

*H. Any discipline or enforcement action imposed under this chapter which is in any manner related to violations of the Performance Codes shall be applicable to the premises in question notwithstanding any change in the owner or its ownership of the premises. Any discipline or enforcement action imposed under this chapter with respect to any premises for reasons other than violation of any of the Performance Codes shall terminate, with respect to its applicability to such premises, upon any conveyance and/or change in owner or its ownership of the premises to a new owner, provided that:*

*(1) The new owner, if an individual, shall not be related to the existing owner by blood, marriage, adoption or other decree of legal custody; and*

*(2) The new owner, if a legal entity (other than an individual), shall not be owned, wholly or partially, by the existing owner.*

## **READING DCR ORDINANCE**

### **§11-106. Denial of Application for Rental Housing Permit.**

A rental permit shall not be issued or renewed to any applicant if said rental unit, building or dwelling is not in compliance with the City of Reading Codified Ordinances including, but not limited to, International/City of Reading Building Code [Chapter 5, Part 1B], Existing Building Code [Chapter 5, Part 1C], Plumbing Code [Chapter 5, Part 2], Mechanical Code [Chapter 5, Part 5], Electrical Code [Chapter 5, Part 4], Fire Code [Chapter 5, Part 3], and Residential Code [Chapter 5, Part 8], Property Maintenance Code [Chapter 5, Part 6], Solid Waste and Recycling Ordinance [Chapter 20, Part 1], Health Code [Chapter 10, Part 1] and Zoning Ordinance [Chapter 27], or has failed an inspection, is in pending litigation for egregious violations of the aforesaid Codified Ordinances or has been declared uninhabitable and/or condemned by the appropriate authority with jurisdiction.

(Ord. 28-2007, 7/23/2007, §1)

### **§11-107. Revocation of Rental Permit.**

At the discretion of the issuing authority, the City of Reading, Codes Enforcement Division, the municipality shall have the authority to revoke or suspend the rental housing permit of any rental unit, building, rooming house, or dwelling that is uninhabitable by humans, is in egregious noncompliance with the City of Reading Codified Ordinances including, but not limited to, International/City of Reading Building Code [Chapter 5, Part 1B], Existing Building Code [Chapter 5, Part 1C], Plumbing Code [Chapter 5, Part 2], Mechanical Code [Chapter 5, Part 5], Electrical Code [Chapter 5, Part 4], Fire Code [Chapter 5, Part 3], and Residential Code [Chapter 5, Part 8], Property Maintenance Code [Chapter 5, Part 6], Solid Waste and Recycling Ordinance [Chapter 20, Part 1], Health Code [Chapter 10, Part 1] and Zoning Ordinance [Chapter 27], or has failed an inspection, is in pending litigation.

### **§11-114. Owner and Occupant Duties.**

#### **1. Owner's Duties.**

A. It shall be the duty of every owner, operator, responsible agent or manager to keep and maintain all rental units in compliance with all applicable codes and provisions of all applicable State laws and regulations and local ordinances, and to keep such property in good and safe condition and to be aware of, **and to act to eliminate disruptive conduct in such rental units.**

B. It shall be unlawful for any person to conduct or operate or cause to be rented either as owner, operator, responsible agent or manager any rental unit within the City of Reading without having a rental registration or a rental license.

C. **The owner, operator, responsible agent or manager shall include the amendment attached hereto as the addendum to rental agreement in each lease of a rental unit taking effect on or after May 1, 2007. Said amendment is hereby considered to be a part of every lease of a rental unit in the City of Reading executed on or after May 1, 2007.**

D. It shall be the responsibility of every owner, operator, responsible agent or manager to employ policies and to manage the rental units under his/her control in compliance with the provisions of this Part, City codes and applicable State laws.

**2. Occupant Duties.**

A. The occupant(s) shall comply with all obligations imposed unto by this Part and by the City of Reading Codified Ordinances including, but not limited to, Chapter 2, Animals, Chapter 3, Bicycles, Chapter 5, Code Enforcement, Part 6, Property Maintenance Code, Chapter 6, Conduct, Chapter 10, Health and Safety, Chapter 15, Motor Vehicles and Traffic, Chapter 20, Solid Waste, and Chapter 21, Streets and Sidewalks, as well as all State laws and regulations.

B. The occupant(s) shall conduct themselves and require other persons including, but not limited to, guests on the premises and within their rental unit with their consent, to conduct themselves in a manner that will not disturb the peaceful enjoyment of the premises by others and that will not disturb the peaceful enjoyment of adjacent or nearby dwellings by people occupying the same.

C. The occupant(s) shall not engage in, nor tolerate, nor permit others on the premises to cause damage to the rental unit or engage in disruptive conduct, or other violations of this Part, City codes or applicable State laws.

D. Police officers or public officers shall investigate alleged incidents of disruptive conduct. They shall complete a disruptive conduct report upon a finding that the reported incident constitutes disruptive conduct as defined herein. The information filed in said report shall include, if possible, the identity of the alleged perpetrators of the disruptive conduct and all other obtainable information, including the factual basis for the disruptive conduct described on the prescribed.

(Ord. 28-2007, 7/23/2007, §1)

**§11-115. Owners Severally Responsible.**

If any regulated dwelling unit or rooming unit is owned by more than one person, in any form of joint tenancy, as a partnership, corporation or otherwise, each persons shall be jointly and severally responsible for the duties imposed under the terms of this Part and shall be severally subject to prosecution for the violation of this Part.

**§11-120. Denial or Nonrenewal of a Rental Permit for Failure to Comply with Application, Chapter and/or Failure to Pass Inspection.**

1. **Timing.** A decision to deny or not renew an application for a rental permit for the reasons set forth herein shall be made within 15 working days of receipt of the application with payment of appropriate fee as indicated on the time stamp by the Codes Enforcement Division. This time period shall be extended to 15 working days after performance of an inspection where an inspection is required.

**2. Basis for Denial or Nonrenewal under this Part.**

A. A rental permit shall be denied and/or nonrenewed upon failure of the owner to comply with the application requirements set forth in this Part.

B. An application for an initial or renewed permit shall also be denied upon proof of failure of owner or local responsible agent to comply with the requirements of this Part including, but not limited to, the posting requirements, submission of tenant listing, failure to appear for more than one schedule inspection, failure to appear

for a scheduled court hearing and noncompliance with owner's duties.

C. A rental permit shall not be issued or renewed upon the failure of dwelling unit or rooming unit to pass an initial or a renewal inspection as required by §11-109(1) and (2) of this Part.

D. A rental permit shall not be issued or renewed to any applicant if said rental unit, building or dwelling is not in compliance with the City of Reading Codified Ordinances including, but not limited to, International/City of Reading Building Code [Chapter 5, Part 1B], Existing Building Code [Chapter 5, Part 1C], Plumbing Code [Chapter 5, Part 2], Mechanical Code [Chapter 5, Part 5], Electrical Code [Chapter 5, Part 4], Fire Code [Chapter 5, Part 3], and Residential Code [Chapter 5, Part 8], Property Maintenance Code [Chapter 5, Part 6], Solid Waste and Recycling Ordinance [Chapter 20, Part 1], Health Code [Chapter 10, Part 1] and Zoning Ordinance [Chapter 27], or has failed an inspection, is in pending litigation for violations of the aforesaid Codified Ordinances or has been declared unfit for human habitation and/or condemned by appropriate authority with jurisdiction or an owner or his/her local responsible agent fails to appear in court for a hearing regarding a violation of the aforesaid Codes of the City of Reading.

[Ord. 55-2008]

3. **Notice.** Notification of the decision to deny or not renew an application for an initial or renewal of a rental permit shall be issued by the Codes Enforcement Division Manager or his/her designee within 15 working days of receipt of the application. The notification shall specify the reason for denial or refusal to renew an application for a rental permit citing the requirement therefor. Said notice shall be in accord with the requirements therefor of this Part. [Ord. 55-2008]

4. **Right to Cure.** At the discretion of the Codes Enforcement Manager or his/her designee notification of the denial or nonrenewal of a rental permit may provide the owner an opportunity to cure the basis for the denial or nonrenewal. If said opportunity is provided, the notification must specify the time period provided for curing of the basis for the denial or refusal to renew a rental permit. Upon failure of the owner or local responsible agent to cure the basis for the denial within the time period given, the decision of the Codes Enforcement Division Manager or his/her designee to deny or not renew a rental permit shall stand and the sole recourse shall be an appeal. Nothing in this Section is to be interpreted to override the requirements and right to resolve failure to pass inspection as required above as part of the initial and renewal inspection process. [Ord. 55-2008]

5. **Appeal.** The denial of an initial or renewal application for a rental permit for the reasons set forth above may be appealed to the Housing Board of Appeals by submission of such a request with payment of the appropriate fee made in writing to the Manager of the Codes Enforcement Division within 10 days of receipt of notification of such denial. [Ord. 55-2008]

(Ord. 28-2007, 7/23/2007, §1; as amended by Ord. 55-2008, 9/22/2008, §1; and by Ord. 65-2008, 10/13/2008, §1)

## **§11-121. Suspension or Revocation of Rental Permit.**

### **1. Warning Notice Required Prior to Suspension of Rental Permit.**

A. Prior to suspension or revocation of a rental license, the Code Official shall provide

written notice of violation to the owner of any dwelling unit or rooming unit.

B. The written notice of violation shall inform the owner of the rental property, dwelling unit or rooming unit and the owner's responsible local agent that a written correction plan shall be submitted to the Code Official within 5 days after receipt of the notice of violation. Failure to submit an acceptable correction plan will result in suspension or revocation of all applicable housing permits.

C. The notice of violation shall inform the owner of the rental property, dwelling unit or rooming unit that the owner may request an informal meeting with the Code Official to discuss the violations within 5 days of the receipt of the notice of violations. Owners requesting a meeting may request that the owner's responsible local agent represent the owner and act on the owner's behalf.

D. This subsection shall be issued in conjunction with and not in lieu of the requisite notices of violations regarding under City of Reading Codes including, but not limited to, the Property Maintenance Code [Chapter 5, Part 6].

E. The notice of violation/warning and notice of suspension or revocation shall be served in accord with the official notice requirements set forth in this Part.

Additionally such notices shall be also be served via certified mail return receipt requested with date of receipt determined by date of execution of return receipt. Provided, that should the certified mail be returned as unclaimed and first class mail issued in conjunction with the certified mail not be returned there will be a rebuttable presumption that but for the recipient's refusal of the certified mail, notice was received within five mail (Monday - Saturday) days of date of mailing.

F. **Form.** A notice of a violation shall be in accordance with all of the following:

- (1) Be in writing.
- (2) Include a description of the real estate sufficient for identification.
- (3) Include a statement of the violation or violations and why the notice is being issued.
- (4) Include a statement of the requirement that a correction or rehab plan be submitted within the time provided for in this Part.
- (5) Inform the property owner of the right to request a meeting to discuss the notice.

## **2. Suspension or Revocation Procedures.**

A. The Code Official shall notify the owner of the suspension or revocation of a rental license for a dwelling unit or rooming unit by written notice sent by first class mail and certified mail or delivered in person should the certified mail be returned as unclaimed and first class mail issued in conjunction with the certified mail not be returned there will be a rebuttable presumption that but for the recipient's refusal of the certified mail notice was received within five mail (Monday - Saturday) days of date of mailing. The notice shall advise the owner of the property address of the dwelling unit or rooming unit, the effective dates of the suspension or revocation, the reason for the suspension or revocation, the effect of the suspension or revocation, penalties that can be imposed for violation of the suspension and appeal rights and procedures.

B. The Code Official shall set forth the effective date of the suspension or revocation in such manner so that suspension or revocation commences on the first day following expiration of the 10 days to file an appeal of the Code Official's determination.



C. No rental permit shall be renewed for 6 months for the first suspension or revocation and 12 months for each subsequent suspension or revocation within a 5-year period beginning on the effective date of the suspension or revocation.

D. During the time a rental license is suspended or revoked, if any additional

violations occur against the dwelling unit or rooming unit, the rental license suspension or revocation may be extended up to an additional 12 months.

**3. Effect of Suspension.** Upon the commencement of suspension or revocation, the dwelling unit or rooming unit shall be secured by the owner, and no person, firm, or corporation shall operate or rent/ lease to another for residential occupancy any dwelling unit or rooming unit during such time that the rental license for such unit is suspended or revoked. The transfer of the ownership of a rental property by an owner to an entity in which such owner holds an ownership or equity interest will not void the existing violations relating to such rental property or void any existing suspension or revocation relating to such rental property. [Ord. 55-2008]

**4. Defense.** When tenants and/or occupants are culpable for violations resulting in a suspension notice, the owner may request reinstatement of the housing permit upon eviction of the tenants, provided the owner is current with submission of tenant listings as required by this Part.

**5. Appeal Procedure for Suspension or Revocation Initiated by the Code Official.** An appeal of a suspension or revocation of a rental permit shall be made by submitting the appropriate fee and a request for an appeal to the Housing Board of Appeal in writing to the Manager of Codes Enforcement Division within 10 days of receipt of the notice of suspension or revocation.

**6. Basis for Suspension or Revocation.** A rental permit shall be suspended or revoked at the discretion of the Manager of the Codes Enforcement Division or his/her designee if egregious, severe, life-threatening, health and welfare or repetitive, continued violations of the offenses set forth in subsection (7) exist at the dwelling unit or rooming unit without any attempt to cure or remedy the problem or submission of a timely rehab plan and lack of response to notices of violations issued by the appropriate authority.

**7. Offenses.** For purposes of this Part, offenses are those as set forth, but not limited to, the following ordinances or statutes:

A. *Occupancy.* Refers to regulations relating to occupancy of rooming units, dwelling units and dwellings as contained in Chapter 5 (Code Enforcement) and Chapter 27 (Zoning) of the Codified Ordinances of the City of Reading.

B. *Refuse.* Refers to regulations relating to garbage, rubbish and refuse, under the City of Reading Codified Ordinances including, but not limited to, the Property Maintenance Code, Chapter 5, Health Code, Chapter 10 and Solid Waste and Recycling Ordinance, Chapter 20.

C. *Property Maintenance (Interior and Exterior).* Refers to regulations as governed by the City of Reading Property Maintenance Code in Chapter 5 of the City of Reading Codified Ordinances.

D. *Sidewalks.* Refers to regulations relating to snow and ice removal contained in the Streets and Sidewalks, Chapter 21 of the City of Reading Codified Ordinances.

E. *Noise.* Refers to regulations relating to Noise Disturbance, and Conduct, Chapter 6 of the City of Reading Codified Ordinances.

F. *Vegetation.* Refers to regulations relating to Brush, Grass and Weeds, per the City of Reading Codified Ordinances including, but not limited to, the Property

Maintenance Code, Chapter 5, and Health Code, Chapter 10.

G. *Disorderly Conduct*. Refers to enforcement by the City of Reading Police Department of §5503, Crimes Code, Act of Dec. 6, 1972, P.L. 1482, No. 334, 18 Pa.C.S.A.

§5503, and Chapter 6, Conduct, of the City of Reading Codified Ordinances.

H. *Dogs*. Refers to regulations relating to Animals and Health under Chapters 2 and 10 of the City of Reading Codified Ordinances.

I. *Fire Prevention Code*. Refers to regulations to the City of Reading Fire Prevention Code as provided for in Chapter 5, Code Enforcement, and Chapter 7, Fire Prevention and Protection, of the City of Reading Codified Ordinances.

J. Zoning violations and related offenses per Chapter 27 of the City of Reading Codified Ordinances.

K. Violation of Chapter 5 of the City of Reading Codified Ordinances regarding Code Enforcement including, but not limited to, the City of Reading Building Code [Chapter 5, Part 1B], Existing Building Code [Chapter 5, Part 1C], Plumbing Code [Chapter 5, Part 2], Mechanical Code [Chapter 5, Part 5], Electrical Code [Chapter 5, Part 4], Fire Code [Chapter 5, Part 3], and Residential Code [Chapter 5, Part 8].

L. Failure to appear in court and related offenses.

M. Any other offense that renders the dwelling, unit, or room inhabitable.

At the discretion of the issuing authority, the City of Reading Codes Enforcement Division, the municipality shall have the authority to revoke or suspend the rental housing permit of any rental unit, building, rooming house, or dwelling that is uninhabitable by humans, is in egregious noncompliance with the City of Reading Codified Ordinances including, but not limited to, International/City of Reading Building Code [Chapter 5, Part 1B], Existing Building Code [Chapter 5, Part 1C], Plumbing Code [Chapter 5, Part 1], Mechanical Code [Chapter 5, Part 5], Electrical Code [Chapter 5, Part 4], Fire Code [Chapter 5, Part 3], and Residential Code [Chapter 5, Part 8], Property Maintenance Code [Chapter 5, Part 6], Solid Waste and Recycling Ordinance [Chapter 20, Part 1], Health Code [Chapter 10, Part 1] and Zoning Ordinance [Chapter 27], or has failed an inspection, is in pending litigation for violations of the aforesaid Codified Ordinances and/or has been condemned by the authority with jurisdiction

**8. Immediate Suspension or Revocation.** Placarding and condemning of a property per the City of Reading Property Maintenance Code [Chapter 5, Part 6] shall result in immediate suspension or revocation of a rental permit. Notwithstanding any other provision of this Part, the permit shall be reinstated upon performance of an inspection, payment of the appropriate fee for removal of the placard per the Property Maintenance Code [Chapter 5, Part 6] and submission with the appropriate fee and approval of an application for a rental permit.

**9. Suspension and Disruptive Conduct.** Nothing in this Section shall be interpreted to preclude enforcement under the disruptive conduct Section [§11-123] set forth herein.

**10. Reinstatement of Rental Permit Subsequent to Suspension or Revocation.** To obtain reinstatement of a rental permit subsequent to a suspension or revocation and period therefor, an owner must resubmit an application and undergoing the process for an initial application including, but not limited to, undergoing an inspection and payment of the appropriate fee.

**11. Notice.**

A. **Form.** A notice of a suspension or revocation of a rental permit shall set forth the information required herein and be in a form accordance with all of the following:

- (1) Be in writing.
  - (2) Include a description of the real estate sufficient for identification.
  - (3) Include a statement of the violation or violations and why the permit is being suspended or revoked.
  - (4) The time period for the suspension or revocation of the permit.
  - (5) Inform the property owner of the right to appeal.
- (Ord. 28-2007, 7/23/2007, §1; as amended by Ord. 55-2008, 9/22/2008, §1; and by Ord. 65-2008, 10/13/2008, §1)

**§11-122. Violation and Penalties.**

1. **Violations.** It shall be unlawful for any person, as either owner or local responsible agent of a rental dwelling unit or rooming unit for [which] a rental permit is required, to operate without a valid, current permit issued by the City of Reading authorizing such action. It shall also be unlawful for any person, either owner or local responsible agent, to allow the number of occupants of dwelling unit or rooming unit to exceed the maximum limit as set forth on the license or to violate any other provision of this Part, including, but not limited to, failure to timely submit a tenant listing and renew a rental permit. Further, it shall be unlawful for any occupant to violate this Part.

2. **Prosecution of Violation.** If the above violations are not corrected, the Manager of the Codes Enforcement Division or his/her designee or code official shall institute the appropriate proceeding at law or in equity, to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this Code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate. Notwithstanding the above, nothing will prevent the Manager of Codes Enforcement Division or his/her designee or code official from commencing a summary offense criminal action via the issuance of a nontraffic citation in accord with the Pennsylvania Rules of Criminal Procedures in the court of appropriate jurisdiction and the violation shall be deemed a strict liability offense.

3. **Collections.** All bills or accounts governed by this Part which are not paid by May 1 of each year or within 60 days of application from date of application/original date of billing shall be turned over to a collection agency for receipt.

4. **Penalties.** Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not less than \$75 and not more than \$500 plus costs and restitution. In default of payment of said fine and costs to a term of imprisonment of not more than 90 days. Each day that violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense. Such penalties shall be exclusive of the doubling of the permit fee for untimely payment and submission thereof to collections as well as suspension or revocation of permit for failure to pay.

5. **Nonexclusive Remedies.** The penalty and collection provisions of this Section and the license nonrenewal, suspension and revocation procedures provided in this Part shall be independent, nonmutually exclusive separate remedies, all of which shall be available to the City of Reading as may be deemed appropriate for carrying out the purposes of this Part. The remedies and procedures provided in this Part for violation hereof are not intended to supplant or replace to any degree the remedies and procedures available to the City in the case of a violation of any other City of Reading Code or Codified

Ordinances, whether or not such other code or ordinance is referenced in this Part and whether or not an ongoing violation of such other code or ordinance is cited as the underlying ground for a finding of a violation of this Part.

(Ord. 28-2007, 7/23/2007, §1)

### **§11-123. Disruptive Conduct.**

**1. Investigation and Report of Disruptive Conduct.** Police officers or public officers shall investigate alleged incidents of disruptive conduct. They shall complete a disruptive conduct report upon a finding that the reported incident constitutes disruptive

as defined herein. The information filed in said report shall include, if possible, the identity of the alleged perpetrators of the disruptive conduct and all other obtainable information, including the factual basis for the disruptive conduct described on the prescribed form. A copy of the disruptive conduct report shall be given or mailed to the occupant and mailed to the owner and local responsible agent within 10 working days of the occurrence of the alleged disruptive conduct.

**2. Appeals.** The occupant, owner or local responsible agent shall have 10 working days from the date of receipt of a disruptive conduct report to appeal the contents of said disruptive conduct report. The appeal shall be made in writing and submitted to the Manager of the Codes Enforcement Division. An appeal of the second disruptive conduct report within a 12-month period shall stop the eviction proceedings against the occupants until the appeal is resolved, only if the eviction proceedings were a direct result of the second disruptive conduct report. [Ord. 43-2008]

**3. Eviction.** After two disruptive conduct incidents in any 12-month period by an occupant documented by disruptive conduct reports, the owner or local responsible agent shall have 10 working days from the date of his/her receiving the notice to begin eviction proceedings against the occupants. The owner or local responsible agent shall diligently pursue the eviction of the occupants as required herein. Diligent pursuit of the eviction of said occupants shall include, but not be limited to, prosecution of the eviction proceeding, participation with follow through any appeal and obtain possession of the property. This subsection is not intended to limit or inhibit the owner or local responsible agent's right to initiate eviction actions prior to the second disruptive conduct incident. [Ord. 43-2008]

**4. Suspension or Revocation of Rental Permit.** Failure of an owner or local responsible agent to take action required in subsection (3) above will result in the commencement of the process to suspend a rental permit per the process established herein, notwithstanding any other requirements therefor.

**5. Reinstatement of Rental Permit.** The rental unit involved shall not have its rental permit reinstated until the reinstatement fee is paid and the disruptive occupants have been evicted, the Housing Board of Appeals has ruled in the occupant's favor, the Housing Board of Appeals has ruled in the owner's favor but has not ordered the eviction of the occupant(s), or the occupants have filed an appeal to a higher court thereby preventing their eviction. Notwithstanding this subsection, if there are violations assessed against the owner per the provisions of this Part which require suspension or revocation, a rental permit shall not be reinstated until compliance with the requirements therefor have occurred. [Ord. 55-2008]

**6. Reoccupation.** The disruptive occupants, upon eviction, shall not re-occupy any rental unit on the same premises involved for a period of at least 1 year from date of eviction.

**7. Report Against All Occupants.** The content of the disruptive conduct report shall count

against all occupants of the rental unit. The content of the disruptive conduct report shall not count against all occupants of the rental unit if the complaint is initiated by one of the rental unit occupants. More than one disruptive conduct report filed against the occupants of a rental unit in a 24-hour period shall count as a single disruptive conduct report for the purpose of the preceding subsection. [Ord. 43-2008]

**8. Maintenance of List of Disruptive Conduct Report Tenants and Occupants and Evicted Occupants.** The Codes Enforcement Office shall maintain a list of the names of all occupants and tenants against whom a disruptive conduct report is issued as a result of this Part. The Codes Enforcement Division shall also maintain a list of all occupants and tenants evicted as a result of this Part. The names shall remain on the list for a period of 5 years. [Ord. 43-2008]

**9. Appeals.** Any person aggrieved by any decision of a police officer or public officer in regard to a disruptive conduct report or the revocation of a rental permit resulting therefrom may appeal to the Housing Board of Appeals. Such appeal must be filed with the appropriate fee with the Manager of the Codes Enforcement Division in writing, within 10 working days from the date of receipt of the disruptive conduct report or notice of revocation.

(Ord. 28-2007, 7/23/2007, §1; as amended by Ord. 43-2008, 8/25/2008, §§1 and 2; by Ord. 55-2008, 9/22/2008, §1; and by Ord. 65-2008, 10/13/2008, §1)

## **§11-124. Housing Board of Appeals.**

**1. Appeals.** Any person aggrieved by any decision of a police officer or public officer in regard to a disruptive conduct report or the suspension, nonrenewal, denial or revocation of a rental permit may appeal to the Housing Board of Appeals. Such appeal must be filed, in writing, with the Manager of the Codes Enforcement Division, with the appropriate filing fee within 10 working days from the date of receipt of the disruptive conduct report or notice of revocation. [Ord. 43-2008]

### **2. Organization.**

**A. Membership.** The Housing Board of Appeals shall be a body of seven members consisting of: the Managing Director or his/her designee who shall serve as Chairperson; a Councilperson, Codes Enforcement Division Manager or their designee; the Chief of Police or his/her designee; an owner or local responsible agent of a rental unit(s) in Reading; an occupant of a rental unit residing in the City of Reading; and a member of a community group recognized by the City of Reading.

**B. Alternates.** There shall be three alternate members: an owner or local responsible agent, an occupant of a rental unit residing in the City of Reading and a member of a community group recognized by the City of Reading.

**C. Appointment.** All members of the Board shall be appointed by the Mayor with the advice and consent of the Council of the City of Reading, with the exception of the Council Member, who shall be appointed by the Council President.

**D. Term.** A member or alternate member shall serve a term of not more than 3 years from the time of appointment or reappointment or until his/her successor shall take office. Members and alternates of the initial board shall be appointed to staggered terms of 1, 2 and 3 years.

**E. Powers of Designee and Alternates.** Designees and alternate members may be requested to attend meetings in absence of a regular member and shall have all the powers of a regular member at such meetings.

F. **Oaths and Subpoenas.** The Board shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties. [Ord. 43-2008]

G. **Quorum and Majority Vote.** Four members shall constitute a quorum of the Board. A majority vote of the members of the quorum of the Board shall prevail. A tie vote shall be deemed as a denial of the appeal. [Ord. 43-2008]

3. **Powers.** The Board shall have the following powers:

A. **Promulgate Rules and Regulations.** To adopt and administer the rules of procedure regarding its organization, officers (except the Chairperson), times and places of meetings, conduct of meetings and other legal procedures relating to the hearing and determination of appeals and other matters within the Board's jurisdiction.

B. **Hear and Decide Appeals.** To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the police officer or public officer in the enforcement of the provisions of this Part.

C. **Grant Modification or Variance.** To modify any notice of violation or order and to authorize a variance from the terms of this code when because of special circumstances, undue hardship would result from literal enforcement, and where such variance substantially complies with the spirit and intent of the Code.

D. **Grant Extension of Time.** To grant a reasonable extension of time for the compliance, as described in the City's Property Maintenance Code [Chapter 5, Part 6] and other applicable sections of the City of Reading Codified Ordinances of any order where there is a demonstrated case of hardship and evidence of bona fide intent to comply within a reasonable time period.

E. **Timeliness.** In exercising the above-mentioned powers, the Board shall act with reasonable promptness and seek to prevent unwarranted delays prejudicial to the party involved and to the public interest; provided, however, that the Board shall file its decision within 10 working days after the appeal hearing.

F. **Oaths and Subpoenas.** The Board shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by parties. [Ord. 43-2008]

G. **Authority.** The Board may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as justice would require, and, to that end, shall have all the powers of the police officer or public officer; provided, however, that the Housing Board of Appeals, in its determination, shall be bound by this Part and shall not ignore the clear provisions and intent of this Part. [Ord. 43-2008]

4. **Records Open to Inspection.** The disruptive conduct report and all records of all proceedings and the final disposition of the matter outlined in the appeal shall be public and available for inspection; provided, however, that the police officer or public officer may prescribe reasonable regulation regarding the time and manner of inspection.

5. **Affect of Appeals.** Any decision or order issued under, per and in accord with this Part, shall be held in abeyance upon the timely filing of an appeal thereof with the Housing Board of Appeals. Said abeyance shall include, but not be limited to, revocation,

suspension, denial or nonrenewal of a rental permit until the appeal is resolved. An appeal of the two disruptive conduct reports within a 12-month period shall stop the eviction proceedings against the occupants until the appeal is resolved, only if the eviction proceedings were a direct result of the second disruptive conduct report. [Ord. 43-2008]

**6. Enforcement upon Resolution of Appeal of Housing Board.** If this appeal is of a second disruptive conduct report and the decision of the police officer or public officer has been affirmed, within 10 working days and time for compliance as required by the decision of the Housing Board of Appeals, the public officer shall reinspect to determine compliance as to whether the occupant has voluntarily moved from the premises or the owner has initiated eviction proceedings.

If, when so required by a second disruptive conduct report, the occupant has not voluntarily moved or the owner has not initiated eviction proceedings, and for compliance as required by the decision of the Board has expired, the public officer shall institute revocation of the rental permit per the provisions set forth in this Part. [Ord. 43-2008]

**7. Fee and Costs.** The fee for filing of an appeal to the Housing Board of Appeals shall be \$75. Failure to submit the appropriate fee with the request for an appeal shall result in automatic denial of the appeal. In addition to said fee, the Appellant shall be responsible

for all costs incurred to conduct a hearing beyond that covered by the fee. [Ord. 43-2008] (Ord. 28-2007, 7/23/2007, §§1, 2; as amended by Ord. 43-2008, 8/22/2008, §§1 and 2; and by Ord. 65-2008, 10/13/2008, §1)

**§11-125. Appeal to Court of Common Pleas.**

Any person, including the police officer or public officer for the City, aggrieved by any decision of the Housing Board of Appeals, may appeal to the Court of Common Pleas of Berks County. Such appeal shall be made by a duly verified petition in accord with the Pennsylvania Rules of Civil Procedure and shall set forth the factual and legal basis upon which the decision of the Board is alleged to be incorrect or illegal, in whole or in part. Said petition shall be filed with the Court of Common Pleas within 30 days after service of the decision. Notice of the appeal shall be served upon all parties to the appeal before the Housing Board of Appeals, including the Board and City of Reading, at the time of its filing. An appeal to the Court of Common Pleas of a decision of the Housing Board of Appeals shall not hold automatically stay enforcement of the Board's decision.

(Ord. 28-2007, 7/23/2007, §1; as amended by Ord. 43-2008, 8/22/2008, §1; and by Ord. 65-2008, 10/13/2008, §1)

**§11-126. Share Information.**

The City of Reading Codes Enforcement Division is authorized to share any and all information obtained under this Code with other Departments and Divisions of the City of Reading.

(Ord. 28-2007, 7/23/2007, §1)

**§11-127. Compliance with Other City of Reading Ordinances**

Every owner of every dwelling, in addition to the provisions set forth herein, shall comply with the provisions (sections) of all other applicable City Ordinances including, but not limited to, the International/City of Reading Building Code [Chapter 5, Part 1B], Existing Building Code [Chapter 5, Part 1C], Plumbing Code [Chapter 5, Part 2], Mechanical Code [Chapter 5, Part 5], Electrical Code [Chapter 5, Part 4], Fire Code [Chapter 5, Part 3], and Residential Code [Chapter 5, Part 8], Property Maintenance Code [Chapter 5, Part 6], Solid Waste and Recycling Ordinance [Chapter 20, Part 1], Health Code [Chapter 10, Part 1], and Zoning Ordinance [Chapter 27].

## **KUTZTOWN DCR ORDINANCE**

*municipality.*

### **§ 135-2. Definitions and word usage.**

A. The following definitions shall apply in the interpretation and enforcement of this chapter:

#### **AGENT**

A person representing and acting on behalf of an owner.

#### **APARTMENT**

A dwelling unit occupied by one family and containing at least one bathroom and separate eating and cooking facilities with bath.

#### **BOARDINGHOUSE**

A one-family dwelling occupied by the owner thereof (and his family, if applicable), portions of which building the owner lets rooms for lodging.

#### **CLOSED DCR**

A closed DCR shall be a DCR as to which the owner or agent:

(1) With respect to a Level 1 DCR, responds by complying with the procedures set forth in § [135-6E\(3\)](#) of this chapter within 10 business days of receipt of a written notice of a Level 1 DCR.

(2) With respect to a Level 2 DCR, responds by complying with the procedures set forth in § [135-6E\(4\)](#) of this chapter within 20 business days of receipt of a written notice of a Level 2 DCR, and the Code Enforcement Officer has made a determination that the remedial plan proposed by the owner or agent pursuant to § [135-6E\(4\)](#) has been performed by the owner or agent in all material respects. The owner or agent may request the Code Enforcement Officer to make such determination at the time of approval of the remedial plan or at any time thereafter. An owner or agent shall not be deemed to have failed to substantially perform a remedial plan as a result of the refusal of any judicial authority to order the eviction of any occupant, so long as the owner or agent has diligently pursued any eviction proposed in the owner or agent's remedial plan by appropriate legal proceedings to the Court of Common Pleas.

#### **CODE ENFORCEMENT OFFICER**

Any person specifically designated as such by the Council of the Borough of Kutztown to enforce this chapter, and shall include the duly authorized representatives of said Code Enforcement Officer.

#### **COMMON AREA**

Any open area within a structure shared by occupants or that the occupants have the right to share, including, but not limited to, kitchens, bathrooms, living rooms,



dining rooms, attics, basements and any room used for parties, social events or the congregation of people, excepting bedrooms.

### **DISRUPTIVE CONDUCT**

Any form of conduct, action, incident or behavior perpetrated, caused or permitted by any occupant or visitor of a regulated unit that is so loud, untimely (as to hour of the day), offensive, riotous or that otherwise disturbs other persons of reasonable sensibility in their peaceful enjoyment of their premises such that a report is made to police and/or to the Code Enforcement Officer complaining of such conduct, action, incident or behavior. It is not necessary that such conduct, action, incident or behavior constitutes a criminal offense, nor that criminal charges be filed against any person in order for a person to have perpetrated, caused or permitted the commission of disruptive conduct, as defined herein; provided, however, that no disruptive conduct shall be deemed to have occurred unless the Code Enforcement Officer or police shall investigate and make a determination that such did occur, and keep written records, including a disruptive conduct report, of such occurrence.

### **DISRUPTIVE CONDUCT REPORT OR DCR**

A Level 1 DCR and/or a Level 2 DCR, as the context may require.

### **DISRUPTIVE CONDUCT REPORT LEVEL 1 OR LEVEL 1 DCR**

A written report of disruptive conduct on a form to be prescribed therefor, in accordance with § [135-5](#) of this chapter, to be completed by the Code Enforcement Officer or police officer, as the case may be, who actually investigates an alleged incident of disruptive conduct and which shall be maintained by the Code Enforcement Officer. Disruptive conduct reports shall be separate from any other action taken by the police and shall be considered public documents. A DCR shall be deemed a Level 1 DCR when no criminal citation or prosecution is issued in response to the disruptive conduct and other legal action in the judicial system is not pursued by the Borough Police Department or Code Enforcement Officer.

### **DISRUPTIVE CONDUCT REPORT LEVEL 2 OR LEVEL 2 DCR**

A written report of disruptive conduct on a form to be prescribed therefor, in accordance with § [135-5](#) of this chapter, to be completed by the police officer who actually investigates an alleged incident of disruptive conduct and which shall be maintained by the Code Enforcement Officer. A DCR shall be deemed a Level 2 DCR when the disruptive conduct results in the issuance of an actual criminal citation, a criminal offense is actually charged or other legal action is pursued in the judicial system by the police or Code Enforcement Officer. A Level 2 DCR may also be issued by the Code Enforcement Officer as provided in §§ [135-7C](#) and [135-6E\(3\)](#) of this chapter. Level 2 DCR's shall be those DCR's in which owner and occupants shall accrue penalties, if applicable, under this chapter.

### **DWELLING**

Any building or structure (except temporary housing) which is wholly or partly used or intended to be used for living or sleeping by human occupants.

### **DWELLING UNIT**

Any group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living or sleeping.

### **FAMILY**

As used in this chapter, the term "family" shall be defined as:

(1) One or more persons related by blood, marriage, adoption or other decree of legal custody living together as a single housekeeping unit and using cooking facilities and certain rooms in common;

(2) Not more than three persons unrelated, as set forth in Subsection (1) above, living together as a single housekeeping unit and using cooking facilities and certain rooms in common; provided, however, that no related dependent of such unrelated persons shall be counted in determining the number of unrelated persons living together; or

(3) More than three unrelated handicapped persons living permanently together as a single housekeeping unit and using cooking facilities and certain rooms in common; provided, however, that such persons shall be under the supervision of a nonhandicapped resident of the dwelling and provided, further, that the dwelling is owned and operated by a Pennsylvania nonprofit corporation

#### 135-6. Responsibilities of owner and agents.

A. Whosoever, as owner or agent, lets or holds out to let any unit subject to the provisions of this chapter shall supply the Code Enforcement Officer with the following information:

(1) The street address and mailing address (if different from the street address) of each such unit.

(2) The number of units for let in any dwelling, rooming house or boardinghouse, which number shall in no event exceed the number of such units provided for on the housing license issued to the owner or agent on behalf of the owner.

(3) The name of each person occupying each such unit.

(4) The period of time for which the unit is let.

B. Such information shall be supplied to the Code Enforcement Officer annually in writing, in such form as may be prescribed in accordance with § [135-5](#) of this chapter. Such information pertaining to any unit shall also be supplied in writing to the Code Enforcement Officer, in such form as may be prescribed in accordance with § [135-9](#) of this chapter, within 10 days after the occupancy of any such unit changes.

C. The owner of any unit required to obtain a housing license pursuant to the requirements of this chapter shall designate a person to serve as the owner's agent. The owner or agent shall be legally responsible for operating each unit in compliance with all provisions of this chapter and the Performance Codes, the housing license issued relating to the maximum number of persons that may occupy such regulated unit and all other provisions of this chapter. The agent shall reside either within such premises where the regulated unit is located or within a five-mile radius thereof. The owner of the regulated unit may also serve as the agent if such owner resides within the premises where the regulated unit is located or within a five-mile radius of the

territorial boundary of the Borough of Kutztown or if such owner resides more than five miles from the territorial boundary of the Borough of Kutztown but has a place of business within the Borough of Kutztown and is present at the place of business during normal business hours. For purposes of this section, "normal business hours" shall mean the period of time commencing at 9:00 a.m. and continuing through and including 5:00 p.m., prevailing time, Monday through Friday, except legal holidays, throughout the calendar year. In the absence of the owner, the agent shall be responsible for providing access to such regulated unit so as to permit the Code Enforcement Officer to make inspections thereof. The agent shall be an individual not less than 18 years of age. The name, address and phone numbers of the owner or agent shall be posted in a conspicuous place within the regulated unit.

D. The owner of any regulated unit shall, within 10 days of becoming such owner and thereafter annually, furnish in writing the following information to the occupants and to the Code Enforcement Officer:

- (1) The name, home and business addresses and home and business phone numbers of each owner.
- (2) The name, home and business addresses and home and business phone numbers of the agent.

E. Regulation of occupant conduct and activities.

(1) The owner or agent of any regulated unit shall be responsible for assuring that the conduct and activities of the occupants of every regulated unit which the owner or agent owns in the Borough of Kutztown, which conduct or activity takes place at such regulated unit or its premises, is in compliance with this chapter. In order to achieve those ends, every owner or agent of a regulated unit shall take appropriate contractual and enforcement action to cause the conduct and activities of the occupants thereof to comply with this chapter.

(2) Where an owner or agent does not manage the use of common areas of the premises and the behavior of occupants and guests in the common areas by appropriate contractual and enforcement action, the owner or agent shall be directly responsible for the behavior of occupants and guests in common areas of the premises as if the owner or agent were an occupant.

(3) Within 10 business days after the receipt of written notice from the Code Enforcement Officer that a Level 1 DCR has been issued as a result of an occupant of a regulated unit having violated a provision of this chapter, the owner or agent shall notify the occupants of the regulated unit of the issuance of the Level 1 DCR and its contents, utilizing a form letter provided with such written notice, such form letter to be in such form as is approved in accordance with § [135-5](#) of this chapter. A copy of such form letter issued by the owner or agent to the occupants shall be delivered to the Code Enforcement Officer within such 10 business day period. Failure by the owner or agent to comply with the foregoing provisions of this § [135-](#)

[6E\(3\)](#) shall constitute sufficient grounds for the issuance to the owner or agent by the Code Enforcement Officer of a Level 2 DCR.

(4) Remedial plan.

(a) Within 20 business days after the receipt of a written notice from the Code Enforcement Officer that a Level 2 DCR has been issued as a result of an occupant or owner or agent of a regulated unit having violated a provision of this chapter, the owner or agent shall file with the Code Enforcement Officer a remedial plan, on such form as is approved in accordance with § [135-5](#) of this chapter, which shall, at a minimum, state the following:

[1] Set forth what action the owner or agent has taken to remedy the violation;

[2] What steps the owner or agent has taken to prevent a reoccurrence of the violation; and

[3] Set forth specific steps the owner or agent will take in the future if the violation reoccurs.

(b) The Code Enforcement Officer shall review the report, and, if the Code Enforcement Officer determines that adequate steps have been taken or are proposed to be taken and the remedial plan is adequate to address future violations, the Code Enforcement Officer shall, within 10 business days after receipt of the remedial plan, approve the remedial plan or reject the remedial plan and issue written notice thereof to the owner or agent. The owner or agent shall, on his or her initiative, enforce the remedial plan. Failure to enforce the remedial plan diligently shall be a violation of this chapter. If the Code Enforcement Officer determines that the remedial plan should not be approved and rejects the remedial plan, written notice thereof shall be issued to the owner or agent, and within 10 business days of receiving such notice the owner or agent shall refile a remedial plan which addresses the deficiencies found by the Code Enforcement Officer. The owner or agent may appeal the Code Enforcement Officer's rejection of the remedial plan to the Housing License Appeals Board.

(5) This section shall not be construed as diminishing or relieving, in any way, the responsibility of the occupants, responsible parties and/or their guests for their conduct or activity, nor shall it be construed as an assignment, transfer or projection over or onto any owner or agent of any responsibility of the occupants, any responsible parties or their guests for their conduct or activity, nor shall it be construed as an assignment, transfer or projection over or onto any owner or agent of any responsibility or liability which occupants or their guests may have as a result of their conduct or activity under any private cause of action, civil or criminal enforcement proceeding or criminal law; nor shall this section be construed so as to require an owner or agent to indemnify or defend the occupants, any responsible party or their guests when any such action or proceeding is brought against the occupant based upon the occupant's conduct or activity, nor to, in and of itself, impose any liability for negligence based upon any act or omission of the owner or

agent. Nothing herein is intended to impose any additional civil/criminal liability upon owner or agent other than that which is imposed by other laws or judicial decisions or that which is imposed by this chapter. This section is not intended to, nor shall its effect be, to limit any other enforcement remedies which may be available to the Borough of Kutztown against an owner or agent, occupant or guest thereof.

F. Agreements for regulated units. Regulated units shall only be let pursuant to an agreement or lease.

(1) All rental agreements and/or leases for the Rental of regulated units shall be in writing and shall be supplemented with the addendum attached hereto as Appendix A. **Editor's Note: Appendix A is included at the end of this chapter.** No oral agreements or leases and no oral modifications of agreements or leases are permitted. All information required to be given to occupants and responsible parties by the owner or agent, pursuant to this chapter and/or the Pennsylvania Landlord and Tenant Act, **Editor's Note: See 68 P.S. § 250.101 et seq.** shall be furnished before the signing of the agreement or lease. The owner or agent shall provide the occupant and responsible party with copies of the rental agreement or lease and addendum upon execution. Appendix A shall not be submitted to the Borough of Kutztown unless requested pursuant to § [135-6\(F\)\(4\)](#) hereinbelow.

(2) The owner or agent and the occupant may include in a lease or rental agreement terms and conditions not prohibited by this chapter or other applicable ordinances, regulations and laws, including compensation, if applicable, term of the lease or rental agreement and other provisions governing the rights and obligations of the parties. Except as otherwise provided for in this chapter, no lease or rental agreement may provide that the occupant or owner agrees to waive or forego rights or remedies provided under this chapter. Any provision prohibited by this § [135-6F](#) included in a lease or rental agreement shall be void and unenforceable.

(3) Commencing with the effective date of this chapter, this chapter shall be available for purchase in the Borough Code Office and may be made available by other appropriate means, such as electronically at the Borough's website. Where a rental agreement or lease has been entered into prior to the effective date of this chapter, the owner or agent shall make the occupant aware of this chapter within 60 days thereafter.

(4) The owner or agent shall secure a written acknowledgement from the occupant at the time of signing the rental agreement or lease that the occupant has received the information required by this chapter on a form approved in accordance with § [135-5](#) of this chapter and which shall contain an acknowledgement of receipt of the information by the occupant and any responsible party. Upon request by the Code Enforcement Officer, the owner or agent, within 10 business days of the request, shall furnish to the Code Enforcement Officer copies of said acknowledgement and/or copies of the rental agreement(s) or lease(s) the owner or agent has entered into for regulated units.

G. The owner or agent shall ensure that the regulated unit and the premises upon which the regulated unit is located comply at all times with the Performance Codes.

H. The owner or agent shall reply promptly to reasonable complaints and inquiries from occupants.

I. The owner or agent shall comply with all provisions of the Landlord and Tenant Act of the Commonwealth of Pennsylvania.

J. All notices served upon the owner or agent by the Code Enforcement Officer or the Housing License Appeals Board shall be conspicuously posted by the owner or agent within the unit to which the notice applies.

#### § 135-7. Responsibilities of occupants; disruptive conduct.

A. Peaceful enjoyment. The occupants of a regulated unit shall each conduct themselves and require other persons, including, but not limited to, guests on the premises and within the regulated unit with the occupant's consent and consistent with agreements and leases in effect, to conduct themselves in a manner that will not disturb the peaceful enjoyment of the premises by others, and that will not disturb the peaceful enjoyment of adjacent or nearby premises by the persons occupying the same.

B. Illegal activities. The occupant shall not engage in, nor tolerate nor permit others on the premises to engage in, any conduct declared illegal under the Pennsylvania Crimes Code (18 Pa. C.S.A. § 101 et seq.) or Liquor Code (47 P.S. § 1-101 et seq.) or the Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. § 780-101 et seq.).

C. Disruptive conduct. It shall be a violation of this chapter for any occupant or any other person to engage in disruptive conduct, as defined in this chapter, on the premises of a regulated unit. When police or the Code Enforcement Officer investigate an alleged incident of disruptive conduct occurring in or about a regulated unit, the investigating officer shall complete a disruptive conduct report upon a finding that the reported incident did, in his or her judgment, constitute disruptive conduct as defined in this chapter. Each disruptive conduct report shall be conspicuously marked by the investigating officer to indicate whether it is a Level 1 DCR or a Level 2 DCR. The information filled in on said report shall include, to the extent possible, the identity or identities of the alleged perpetrator(s) of the disruptive conduct and all other obtainable information, including the factual basis for the disruptive conduct, as requested on the prescribed form. Where the police make such investigation, said police officer shall then submit the completed disruptive conduct report to the Code Enforcement Officer. A Level 2 DCR may also be issued by the Code Enforcement Officer for the reasons set forth in § [135-6E\(3\)](#) of this chapter. In all cases, the Code Enforcement Officer shall mail a copy of the disruptive conduct report to the owner or agent of the regulated unit in question within five business days of the occurrence of the alleged disruptive conduct, notwithstanding whether the person making the investigation on behalf of the Borough of Kutztown is the Code Enforcement Officer or the police. The Code Enforcement



Officer may also mail a copy of the disruptive conduct report to other appropriate parties.

D. In addition to all obligations imposed upon occupants by this chapter, occupants of regulated units shall comply with all other applicable codes and ordinances of the Borough of Kutztown and all other applicable laws of the Commonwealth of Pennsylvania and the United States of America.

E. The occupant of a regulated unit shall comply with all lawful provisions of the rental agreement and/or lease entered into between owner or agent and occupant.

F. The occupant of a regulated unit shall not intentionally cause, nor permit nor tolerate others to cause, damage to the premises. Conduct which results in damages to a property may be considered a violation of this chapter and the Performance Codes and may be subject to a disruptive conduct report.

G. The occupant of a regulated unit shall permit inspections of the premises by the Code Enforcement Officer at reasonable times and upon reasonable notice.

H. It shall be a violation of this chapter for any person to remove or deface any notice, placard or document required to be posted within a regulated unit, and it shall be unlawful for any person to occupy the regulated unit unless all notices, placards and documents are posted as required by this chapter.

#### [§ 135-10. Violations and penalties.](#)

A. Any person who violates or fails to comply with any of the provisions of this chapter or any order, notice, rule or regulation issued or made in connection herewith shall, upon conviction thereof, pay a fine of not less than \$50 nor more than \$1,000 and, in default of the payment thereof, shall undergo imprisonment in the Berks County Prison for a period not exceeding 30 days.

B. Every violation of this chapter shall constitute a separate offense, and each day such violation exists shall constitute a separate offense. In the event that any regulated unit is occupied by more than the maximum number of persons allowed by and listed on the housing license issued in accordance with [§ 135-3](#) of this chapter, then each day of occupancy by each such person in excess of such maximum number of occupants shall constitute a separate offense under this chapter. It shall be a violation of this chapter to let a unit subject to regulation under this chapter after nonrenewal, suspension and/or revocation of a housing license pursuant to [§ 135-10C](#) through [E](#) of this chapter.

C. Disciplinary actions. Subject to the procedure set forth in [§ 135-9A](#) of this chapter, the Code Enforcement Officer may initiate the disciplinary actions set forth in this [§ 135-10C](#) against an owner or agent with respect to a regulated unit for any of the reasons set forth in [§ 135-10D](#) of this chapter:

(1) Formal warning: the formal written notification of at least one violation of this chapter. Upon satisfactory compliance with this chapter and any conditions imposed by the Code Enforcement Officer and/or the Housing License Appeals Board, formal warnings shall be removed when the owner applies for housing license renewal when required by this chapter.

(2) Nonrenewal: the denial of the privilege to apply for housing license renewal for a regulated unit after expiration of the license term. The owner shall be permitted to maintain occupants in the regulated unit in question until the end of the current license term but the Code Enforcement Officer shall not accept applications for renewal of the housing license until the expiration of the time set by the Housing License Appeals Board.

(3) Suspension: the immediate loss of the privilege to let the regulated unit for a period of time set by the Code Enforcement Officer or the Housing License Appeals Board. The Code Enforcement Officer may suspend only until the matter can be scheduled for the next possible Housing License Appeals Board meeting, at which meeting the Housing License Appeals Board shall consider the propriety of the suspension and set the period of time for its duration, if it is to be continued. The owner or agent, after the expiration of the suspension period, may apply for housing license renewal for the regulated unit without the need to show cause why the owner or agent's privilege to apply for an housing license should be reinstated. Upon suspension, the owner or agent shall take immediate steps to evict the occupants of the regulated unit in question.

(4) Revocation: The immediate loss of the privilege to let the regulated unit for a period of time set by the Code Enforcement Officer or the Housing License Appeals Board and the loss of the privilege to apply for renewal of the housing license at the expiration of said time period. The Code Enforcement Officer may revoke only until the matter can be scheduled for the next possible Housing License Appeals Board meeting, at which meeting the Housing License Appeals Board shall consider the propriety of the revocation and set the period of time for its duration, if it is to be continued. Upon the loss of the privilege to let, the owner or agent shall take immediate steps to evict the occupants of the regulated unit in question.

D. Grounds for imposing discipline.

(1) Actions subject to discipline.

(a) Any of the following may subject an owner to discipline as provided for in § [135-10C](#):

[1] Failure to abate a violation of the Performance Codes and/or this chapter applicable to the premises within the time directed by the Code Enforcement Officer.

[2] Refusal to permit the inspection of the premises by the Code Enforcement Officer as required by this chapter.

[3] Failure to take such actions as may be required or necessary to cause any open DCR to be deemed a closed DCR by the Code Enforcement Officer by the end of the license year in which the DCR was issued, including, but not limited to, failure to respond to notice of a DCR or failure to perform an approved remedial plan in any material respect. Such failure occurring with respect to one or more open DCRs in each of two license years, when at least two of such open DCRs were issued within a period of 60 months, shall without more, constitute sufficient grounds for nonrenewal as of the commencement of a license year and/or for suspension or revocation. If a DCR is received within the last 20 business days of the license year, the owner shall have 20 business days from the date of receipt of the notice of the issuance of DCR to cause the Open DCR to be deemed a closed DCR, regardless of the date of the end of the license year.



[4] Failure to remedy and prevent further violations of this chapter, other than with respect to disruptive conduct.

(b) For purposes of this subsection, there need be no criminal conviction before a violation can be found to exist.

(2) No discipline involving nonrenewal, suspension and/or revocation shall be permitted unless the discipline has been preceded by the issuance of a formal warning involving the same grounds for discipline at least 10 days prior to the taking of the new disciplinary action. A formal warning shall be issued when there exists one or more open DCRs in each of two license years and at least two of such open DCRs were issued within a period of 60 months.

E. Criteria for application of discipline.

(1) With respect to the issuance of a Level 2 DCR, the Code Enforcement Officer, when considering which of the discipline options to utilize as set forth in this section, and the Housing License Appeals Board, when deciding any discipline matter under this section, shall consider the following:

(a) The effect of the violation on the health, safety and welfare of the occupants of the regulated unit and other residents of the premises.

(b) The effect of the violation on the neighborhood.

(c) Whether the owner has a record of prior violations of this chapter and other ordinances of the Borough of Kutztown or has received notices of violations as provided for in this chapter, whether or not related to the regulated units in question. In this regard, no closed DCR (and any enforcement actions related thereto) shall be considered.

(d) Whether the owner has been subject to prior discipline under this chapter. In this regard, no closed DCR (and any enforcement actions related thereto) shall be considered. The prior issuance of a formal warning in connection with the open DCR shall be considered.

(e) The effect of disciplinary action on the occupants.

(f) The action taken by the owner or agent to remedy the violation and to prevent future violations, including any approved remedial plan submitted by the owner or agent in response to a Level 2 DCR with respect to any open DCR.

(g) The suitability of the policies and rental agreement or lease terms employed by the owner or agent to manage the regulated unit to enable the owner or agent to comply with the provisions of this chapter.

(h) When an open Level 2 DCR is under consideration, the nature of the associated criminal enforcement and/or other legal actions, the nature of the owner's violations of this chapter and the degree of the owner's unresponsiveness.

(2) In addition to applying discipline as set forth in this section relating to a Level 2 DCR, the Code Enforcement Officer may recommend and the Housing License Appeals Board may impose upon the existing license [or subsequent license(s)] with respect to the Performance

Codes] reasonable conditions related to the regulated unit in question for the purpose of fulfilling the goals of this chapter.

F. Procedure for formal warning, Nonrenewal, suspension or revocation of license.

(1) Following a determination that grounds exist for a formal warning or for nonrenewal, suspension or revocation of a housing license, the Code Enforcement Officer shall notify the owner or agent of the action to be taken and the reason therefor. Such notification shall be in writing, addressed to the owner or agent, and shall contain the following information:

(a) The address and identification of the particular regulated unit(s) affected.

(b) A description of the violation which has been found to exist.

(c) A statement that the owner or agent will receive a formal warning, or that the housing license for the affected regulated unit(s) will be subject to suspension or revocation or nonrenewal for the next license year beginning August 1. In the case of a suspension or revocation, the notice shall state the date upon which such suspension or revocation will commence, and in the case of a suspension the notice shall also state the duration of the suspension.

(d) A statement that, due to the nonrenewal, suspension or revocation (as the case may be) of the housing license, the owner or agent or any person acting on the owner's behalf is prohibited from letting or permitting occupancy of the affected regulated unit(s) from and during the period said disciplinary action is in effect.

(e) A statement informing the owner or agent of the owner's right to appeal the decision to issue a formal warning or to subject the housing license in question to suspension, revocation or nonrenewal to the Housing License Appeals Board, as provided in this chapter.

(2) The procedures applicable to this § [135-10F](#) shall be the same those of § [135-9A](#) of this chapter, excepting § [135-9A\(1\)](#) and [\(2\)](#).

G. In addition to any other remedy, discipline or enforcement action provided for in this chapter, the Borough of Kutztown may enforce this chapter by pursuing a civil action, including an action in equity or other equitable injunctive relief, including therewith:

(1) The decision by the Borough of Kutztown to pursue any such action shall not be deemed an election of remedy so as to preclude other enforcement, disciplinary or other remedies available to the Borough of Kutztown for enforcement of this chapter; and

(2) In the Borough of Kutztown's pursuit of any such action, a prima facie showing of a violation of any final, unappealable enforcement or disciplinary action or final, unappealable Housing License Appeals Board order shall be sufficient to satisfy any legal requirement that the Borough of Kutztown demonstrate irreparable harm as a prerequisite to obtaining injunctive relief.

H. Any discipline or enforcement action imposed under this chapter which is in any manner related to violations of the Performance Codes shall be applicable to the premises in question notwithstanding any change in the owner or its ownership of the premises. Any discipline or enforcement action imposed under this chapter with respect to any premises for reasons other

than violation of any of the Performance Codes shall terminate, with respect to its applicability to such premises, upon any conveyance and/or change in owner or its ownership of the premises to a new owner, provided that:

(1) The new owner, if an individual, shall not be related to the existing owner by blood, marriage, adoption or other decree of legal custody; and

(2) The new owner, if a legal entity (other than an individual), shall not be owned, wholly or partially, by the existing owner.